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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,846	01/30/2004	Mailvaganam Mahendran	4320-529	4139
1059	7590	07/09/2004	EXAMINER	
BERESKIN AND PARR SCOTIA PLAZA 40 KING STREET WEST-SUITE 4000 BOX 401 TORONTO, ON M5H 3Y2 CANADA			FORTUNA, ANA M	
		ART UNIT		PAPER NUMBER
		1723		
DATE MAILED: 07/09/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/766,846	MAHENDRAN ET AL.
	Examiner Ana M Fortuna	Art Unit 1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 30 January 2004.  
 2a) This action is **FINAL**.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-4 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 5/3/04.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Henshaw et al (WO97/06880)(hereinafter '880). Reference '880 discloses all the limitations of the claimed invention (claims 13 and 14, Fig. 14).

### ***Double Patenting***

3. Claims 1-4 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21-22 of U.S. Patent No. 5,639,373 in view of Kopp et al (5,643,455 (equivalent to W09302779) ) or JP 06-343837 (hereinafter '837). The claims in '373 do not include the limitation of the pan or permeate collection means with the potting material securing the inner part of the pan or permeate collection means. Reference '455 teaches hollow fiber membrane arranged vertically, with potted fiber ends, and a permeate chamber which inner walls are attached to the potting material (Fig. 1, elements 14, 15, 16). It would have been obvious to one skilled in the art at the time the invention was made to provide a pan for collecting permeate discharged through the ends of the hollow fibers, and further attached the pan to the header or potted section as suggested by Kopp et al. Kopp et al

suggestion can be use in any non-pressurized system that is able to pass a permeate stream from the outside walls of the membranes through the membrane and collected at the inner side of the membranes.

Reference '387 also teaches the permeate pan or means for collecting permeate in a shell-less membrane module with fibers potted at the end, and provided with the collection zone formed by a pan or chamber walls attached to the potting material (Figure, section 4,6, 12).

***Claim Rejections - 35 USC § 112***

4. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, the term "collection means" is unclear as to "permeate an" is intended, since claim 2 refers back to claim 1 and includes the term "permeate pan". In claim 2, the limitation "secured to the inner periphery" is redundant.

5. Claim 2 recites the limitation "permeate pan" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana M Fortuna whose telephone number is (571) 272-1141. The examiner can normally be reached on 9:30-6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on (571) 272-1151. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ana M Fortuna  
Primary Examiner  
Art Unit 1723

AF  
June 28, 2004